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**NEW MEDIA LEARNING**

# PERFORMANCE EVALUATIONS:

*More Important than Ever in 2011*

**WHITE PAPER**

According to the Equal Employment Opportunity Commission (“EEOC”), the Commission received over 7% more employment discrimination and unlawful harassment charges in 2010 than it did the previous year – an unprecedented 99,922 as compared to 93,277 in 2009. Significantly, the number of charges filed increased in every category. Such statistics likely reflect the large number of layoffs that occurred in 2010, coupled with the difficulties terminated employees had in finding new employment in a down economy.

HR Professionals have many tools in their arsenal to prevent, and, if necessary, defend legal charges, lawsuits, government investigations, adverse findings, etc. Performance evaluations are one of the most powerful weapons HR can use to demonstrate that the organization had legitimate, non-discriminatory reasons for termination or other adverse action against an employee or unsuccessful job applicant. In fact, most management side employment lawyers will tell you that performance evaluations can make or break the attorney’s successful defense of an employer against employee claims, charges and lawsuits.

However, as most HR professionals know all too well, supervisors are loathe to prepare and conduct performance appraisals, especially in a timely manner, often merely from a lack of understanding of the critical nature of the performance appraisal process. Supervisors need ongoing instruction in how to prepare and present a performance appraisal that is legally defensible as well as an effective management and coaching tool.

This article will discuss the importance of timely, consistent and accurate performance evaluations, the “process” of performance appraisal, the importance of correctly drafting the appraisal itself, how organizational goals and standards should be included in the evaluation, how stereotyping can negatively impact the objectivity of appraisals, how the actual appraisal meeting should be conducted for maximum impact and how – and why – it is important for supervisors to use employee performance evaluations as a coaching and goal measuring tool all year long.

## **Why are Performance Evaluations so Important?**

Formal performance evaluation plans are designed to meet many organizational and individual needs. They provide systematic judgments to support salary increases, promotions, transfers, demotions and terminations. They are a means of assessing and communicating job performance status to a subordinate employee and suggesting needed changes in behavior, attitude, skills or job knowledge. They are also used as a basis for a supervisor to coach and counsel the individual as well as to identify and deal with performance deficiencies.

Proper performance evaluations also provide important legal protection for the employer. Performance appraisals lay the groundwork for discipline and, if necessary, legally defensible termination when problems with an employee cannot be resolved.

## What are the Proper Steps in Preparing and Conducting a Performance Appraisal?

Performance evaluation is a process, not an event. Even the isolated incident normally referred to as “giving a performance evaluation” should involve a number of steps.

Conducting performance evaluations in a timely and thorough manner is one of the most underplayed but important duties of a supervisor. Often, late appraisals are often the norm, not the exception. Late performance evaluations can reduce the supervisor’s and organization’s credibility in the employee’s eyes, especially if the organization’s policies and procedures specify evaluations will be conducted at specific time intervals (once a year, or on the employee’s anniversary date).

Well in advance of actually writing up an employee’s performance evaluation, the supervisor should determine what documentation he or she needs from other departments and request that information. Some of the documents that might be necessary are attendance and punctuality records, sick leave records, sales records, daily or weekly call records, output reports, etc. The supervisor should not review the employee’s workers’ compensation or medical files, because basing a performance evaluation on workers’ compensation or private medical information is prohibited.

Supervisors should review an employee’s job description as a starting point for preparing a job evaluation. The job description states what the organization wants an employee in a particular job to accomplish and how it wants the employee to perform. Supervisors should start by determining whether the employee’s official job description still accurately reflects his or her key responsibilities. If not, the supervisor should work with the HR Department to bring the job description up to date.

It is important for supervisors to review their employee’s personnel file in preparation for writing his or her performance evaluation. The supervisor does not have to read each and every document in full, but he or she should review the file to note any patterns of behavior, continuing incidents of misconduct or poor performance. Supervisors should also review the employee’s goals from the prior year’s evaluation. If the supervisor has just recently begun supervising the employee, past supervisors’ evaluations may also provide useful information.

### Why is Careful Drafting of Performance Evaluations So Important?

Careful drafting of performance evaluations – as well as all employee performance related documentation – is essential, in today’s litigious workplace. It is essential that supervisors document the employee’s problematic behavior, not the reason why the supervisor believes the behavior exists. Irrelevant facts, such as single parenthood, divorce, financial problems, medical issues, etc. should all be kept out of performance appraisals, and performance evaluation meetings. The supervisor must focus only on the employee’s job performance – clearly and

objectively outlining deficiencies as well as areas in which the employee excels.

Following are some specific tips for drafting better performance evaluations:

- **Be specific and avoid generalities.** Phrases such as “work harder,” “increase production,” “have more enthusiasm,” or “be a better team player” are not specific enough for the employee to know what is expected. Further, they could be used against the employer by implicating that the real reasons for deficiencies are age-related; the employee’s age is the reason they are “slowing down” on the job. Specific goals, such as “increase sales by 20% in the next six months” are measurable and objective, and assist both the employee (who knows what is expected) and the supervisor (who can now easily measure whether that goal is achieved).
- **Focus on what you want the employee to do, not what you want them to be.** A performance evaluation is not the time to detail all of the employee’s personality flaws or weaknesses. A supervisor cannot change the employee’s basic personality traits in a performance evaluation. Supervisors should objectively state exactly what is expected of the employee. For example, instead of using the phrase “be a friendlier person,” a much more constructive, useful phrase would be “reduce customer complaints by 50% in the next three months.”
- **Use concrete details – such as names, numbers and dates.** Be specific regarding exactly what is expected from the employee and the date it is expected. For documenting performance issues, get as detailed as possible instead of merely using phrases such as “have a better attitude.” Supervisors instead should document incidents where the employee’s attitude was improper, stating the date, place, incident, witnesses, behavior(s), and the detrimental affect of the employee’s conduct on those around them, as well as the specific organizational policies or procedures the employee’s behavior violated.
- **Use active verbs, not passive verbs.** A statement such as “deadlines will be met” is meaningless. Rather, “the employee will meet 90% of his deadlines this quarter” is more action-oriented, concrete and measurable.
- **Be realistic.** Set only a limited number of objectives. More than seven is excessive.

HR Professionals often use the term “SMART” when defining performance objectives:

- **Specific:** Keep the goal specific, well defined and understood.
- **Measurable:** There must be some way of determining whether the employee met the goal.

- **Applicable:** The goal must fit within the organization’s strategic plan.
- **Relevant:** The goal must be relevant to what the employee and the department are trying to accomplish.
- **Time sensitive:** There must be a time limit on how long the employee has to accomplish the goal.

Employee collaboration is the key to successful goal setting. If the employee helps to create the goals, chances are that she or he will genuinely want to meet them. As supervisors evaluate and coach employees during the year, they should refer to the performance evaluation regularly to ensure the employee is on track to meet the specified standards. At the end of the year, the appraisal can also be instrumental in answering the essential question for any evaluation: Did the employee’s performance live up to these standards and goals?

## How Can Stereotyping Damage the Performance Evaluation Process?

Supervisors bring their own biases – explicit or implicit – to the performance appraisal process. Stereotyping can be detrimental to an objective, legally defensible evaluation that is consistent with the employee’s performance. It can also be legally problematic by being inconsistent with the organization’s standards of performance appraisal. A creative employee (or more likely their attorney) can use such stereotypes to prove that the employee was treated illegally as compared to their coworkers.

**Following are some common supervisor stereotypes:**

- **The “Halo” Rater**

Some supervisors categorize an employee as a “superstar,” giving the employee consistently outstanding ratings with little or no feedback on how to improve or new goals to achieve.

- **The “Pitchfork” Rater**

Occasionally a supervisor unfairly “targets” a specific employee. In this supervisor’s appraisal, the employee can do no right; their evaluations are consistent in only highlighting the employee’s deficiencies. If true, that employee should be on an improvement performance plan leading to termination.

- **The “Centrist” Rater**

Some supervisors are risk adverse and rate all employees in the middle of the performance spectrum. While this approach is less confrontational, it can lead to legal liability for the organization. Clearly, not every employee has acceptable job performance. It is very difficult to defend disciplinary action or a termination when an employee is consistently evaluated as “Exceeds Expectations” or “Meets Expectations.”

- **The “Recency” Rater**

A recent, serious error can lead a supervisor to overlook an employee’s entire year of performance. In the evaluation process, all aspects of the employee’s performance should be acknowledged.

- **The “Length of Service Bias” Rater**

Some supervisors erroneously view longevity with the organization as an attribute of work performance. An employee’s length of service should not overshadow performance deficiencies.

- **The “Loose” Rater**

Overrating all employees’ performance might make the supervisor more comfortable or popular with subordinates; however, it makes it much more difficult to defend an employee’s demotion, discipline or termination.

- **The “Negative” Rater**

Similarly, “underrating” employees’ performance can be highly detrimental as it deflates employee morale and motivation, resulting in high turnover.

- **The “Same As Me” Rater**

When a supervisor closely identifies with a certain employee, whether because of similar temperament, personal situation or otherwise, they can tend to overrate that employee’s performance. All performance ratings should be tied to objective job requirements.

## **How Should Supervisors Deliver Performance Evaluations?**

Many supervisors view the performance appraisal meeting as merely another administrative chore; however, for the employee, it might be the most important meeting of the year. Many significant issues may be discussed in this meeting, including the employee’s future with the employer, opportunities for advancement, increased compensation, training opportunities and other benefits. For employees with deficiencies in their performance, the meeting is critical – for the employee, the supervisor and the organization.

Effective performance appraisals are not a lecture to the employee by the supervisor. The evaluation meeting should be a two-way conversation; supervisors can enhance the effectiveness of the meeting by employing active listening skills and asking for clarification of employee input.

Of all performance appraisal discussion difficulties, dealing with defensive subordinates is often the most challenging. When individuals are under pressure, they generally adopt one of two coping mechanisms: Fight – some defensive employees stand their ground, raise their voice, pound desks, argue points that have clearly been refuted or put blame on someone or something else. Flight – other defensive employees may look away, try to change the subject, speak softly or passively accept whatever is said. Whether an employee's defensive reaction is manifesting itself as a "fight" or "flight" response, using active listening techniques can assist a supervisor in this situation.

When the conversation becomes argumentative or unproductive, it is the supervisor's responsibility to direct the discussion in a more constructive direction or to terminate the meeting and consult with the HR Department for guidance. It is generally a good rule of thumb for supervisors to employ active listening techniques, seeking to understand the employee's perspective, restating the employee's statement to make sure clarity is achieved, and then for the supervisor to state their perspective and requirements.

After the evaluation meeting, supervisors should document what both the employee and supervisor said and what agreements were made or resolutions were reached. Supervisors should document this meeting carefully, considering in mind that it could later be used as evidence that the supervisor had discriminatory reasons for evaluation ratings or comments. For example, a supervisor who feels he or she is being supportive by saying that he or she knows the employee is having a hard time juggling single parenthood or is going through a difficult divorce may unwittingly upset the employee and create a claim or lawsuit for unlawful harassment or discrimination.

## Using Performance Evaluations as an Ongoing Tool?

Supervisors should use performance appraisals periodically – at least quarterly – to assess employee performance and progress. Performance evaluations are a compilation of employee performance information and are useful discussion starters.

Supervisors should provide feedback to employees regularly - not just in the annual performance appraisal. Employees like regular feedback and an effective supervisor takes time every day for employee feedback. Supervisors become more comfortable with feedback, get better at giving feedback, and can learn to nip problems before they become big. Supervisors can improve performance appraisals by involving the employee in the discussion all year long. Then the official performance appraisal day is just an extension of the normal performance discussion.

## About New Media Learning

Dedicated to the principle that employees are any organization's most valuable resource, New Media Learning has developed interactive online training resources that are easily deployed, simple to use and highly effective in educating an organization's workforce.

Educating the workforce about the finer aspects of employment law is no longer just a good HR practice, but a necessity to build an ethical, diverse and fair workplace. To meet this objective, your compliance training partner is not only required to provide you with rich and constantly updated content but also world class customer service. At New Media Learning we blend deep content expertise with a high-touch client service model so you can focus management attention on running your core business.

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